

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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PATRICIA AUSTIN,

**ORDER**

04-CV-2324 (DRH) (ETB)

Plaintiff,

-against-

HOME DEPOT U.S.A., INC.,

Defendant.

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**A P P E A R A N C E S**

**LAW OFFICE OF WAIEL S. HUSSEIN**

Attorneys for Plaintiff  
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Attorneys for Defendant  
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By: Sal F. DeLuca, Esq.

**HURLEY, District Judge:**

On May 4, 2005, United States Magistrate Judge E. Thomas Boyle, acting pursuant to 28 U.S.C. § 636(b), issued a report and recommendation on the above-captioned case, recommending that it be dismissed with prejudice pursuant to Federal Rules of Civil Procedure 12(c) and 41(b), on the basis of Plaintiff's repeated failure to abide by court orders, Plaintiff's failure to prosecute this action, and res judicata (in light of the same action having

been dismissed on its merits by the Supreme Court of the State of New York).

More than ten days have elapsed since Judge Boyle issued his Report and Recommendation, and neither party has filed any objections to it. Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, has found none, and concurs in both its reasoning and its result. Accordingly, this Court now ADOPTS Judge Boyle's May 4, 2005 Report and Recommendation as if set forth herein, and ORDERS that the above-captioned action be DISMISSED WITH PREJUDICE. The Clerk of Court is directed to CLOSE this case.

**SO ORDERED.**

Dated: Central Islip, N.Y.  
May 25, 2005

/s/  
Denis R. Hurley  
United States District Judge